

Application No. 24-85-640 Permit Number MA-NEBN-86-006
Name of Applicant City of New Bedford
Effective Date January 9, 1986
Expiration Date (if applicable) _____

17.7.33

SDMS DocID 269694

DEPARTMENT OF THE ARMY PERMIT

Referring to written request dated June 11, 1985 for a permit to:

(X) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

(X) Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344);

() Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (36 Stat. 1052; P.L. 92-532);

City of New Bedford
Harbor Development Commission
Pier Three
Wharfinger Building
New Bedford, MA 02740

is hereby authorized by the Secretary of the Army:
to

retain and maintain fill placed in an area of approximately 8.5 acres north of the North Terminal Bulkhead. The area will be leased to and developed by four developers: Herman Melville Shipyard, Marine Hydraulics, New Bedford Welding Supply and Coastal Realty Corp. as shown on the attached plans. No

(continued on page 5)

in Acushnet River

at New Bedford, Massachusetts

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings, give file number or other definite identification marks.)

"Plan Accompanying Petition of City of New Bedford Harbor Development Comm. For the Retention of Fill in the Acushnet River, New Bedford, MA" in 3 sheets dated "August 14, 1985".

subject to the following conditions:

I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1062), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, or any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in reasonable accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

j. That this permit does not obviate the requirement to obtain state or local assent required by law for the activity authorized herein.

k. That this permit may be either modified, suspended or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be materially false, materially incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not completed on or before N/A day of _____, 19____, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

u. That if the permittee during prosecution of the work authorized herein, encounters a previously unidentified archeological or other cultural resource within the area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, he shall immediately notify the district engineer.

II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):

a.) In an effort to consolidate individual tenants into a single plan for mitigation, the City will require each tenant to contribute to a fund set aside for environmental enhancement at alternative locations. Acting in conjunction with the Conservation Commission, the Harbor Development Commission (NBHDC) will investigate fisheries enhancement projects on the Paskamensett River or a shellfish relaying program. Escrow funds from tenants within the North Terminal extension area for the mitigation may be used as contributions for larger programs. Mitigation must be completed within 2 years of the date of this permit.

1.) The first alternative for mitigation will involve anadromous fish restoration efforts. The Paskamensett River will be investigated as a potential site where stream restoration, herring runs or fish ladders could provide fishery enhancement. NBHDC will coordinate with the local Conservation Commission, and State and Federal Fish & Wildlife agencies. Specific plans for the fisheries enhancement will be submitted to the Corps of Engineers, Regulatory Branch within 45 days of this permit.

2.) If, for reasons beyond the control of the City of New Bedford, the first alternative is not feasible, the shellfish relaying program, similar to the program previously conducted by the State, will be undertaken. This program will supplement but not replace any State program. A specific plan will be submitted to us for approval at least 90 days prior to the proposed work.

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (*ten years unless otherwise indicated*);

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR 230;

b. That the discharge will consist of suitable material free from toxic pollutants in toxic amounts.

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution.

DISPOSAL OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the disposal will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 1 2 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or disposal of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

Paul F. Saunders, Director of H.D.C. _____ January 6, 1986

PERMITTEE

DATE

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

EDWARD D. HAMMOND, LTC

DISTRICT ENGINEER,
U.S. ARMY, CORPS OF ENGINEERS

Transferee hereby agrees to comply with the terms and conditions of this permit.

TRANSFEE

DATE

b) The NBHDC will also be directing efforts towards mitigating future environmental problems within the New Bedford Harbor area. This effort will entail analysis of the sediments surrounding the present fill area. Physical conditions and chemical constituents will be tested for bottom sediments within the present inlets and drainage areas, as well as from the shoreline to the river channel. From this data suggested strategies can be developed for dealing with this portion of the overall Harbor cleanup effort. The test results will be submitted to the Corps of Engineers Regulatory Branch within 90 days of the date of this permit.

c) See "Attachment I, Alternative Dredged Material Disposal Sites".

d) It is the responsibility of the NBHDC to initiate the mitigation efforts as soon as necessary to ensure that all work is completed within the specified time.

e) Changes in the leases/leasees may require an amendment to this permit and must be for water dependent purposes.

(continued from page 1)

additional fill or bulkheads are included in this permit. The individual leasees are responsible for obtaining their own permits for any additional work requiring a permit.

Attachment 2
Alternative Dredged Material Disposal Sites

The NBHDC will investigate strategies and potential sites for disposal of non-hazardous dredged materials. Site selection priority will be given to upland and shore zone locations within the immediate Harbor area which are accessible and provide the best logistics for disposal of dredged material from New Bedford Harbor. The proposed plan will include a procedural mechanism for identification of potential sites, access and logistics for transfer, containment and capping, permit application requirements and sources of funding for implementation. This disposal site selection plan will explore the possibility of NBHDC licensing and/or leasing private industry to develop and operate the selected dredged material disposal site. This plan will be completed and submitted to the Corps of Engineers, Regulatory Branch, within 6 months of the date of this permit.

Seven possible sites will be investigated by NBHDC for use as disposal areas for non-hazardous dredged materials. These include the City Landfill (as capping), the North End Playground on the Acushnet River, the railroad yards adjacent to the present fill location, the area within the Acushnet River adjacent to the present fill area, the Pope's Island location the area next to the present sewage treatment plant at Ft. Rodman and Marsh Island (Fairhaven). (see attached maps for locations).

If a feasible site is identified, a disposal area for non-hazardous dredged material from New Bedford Harbor must be operational within 18 months of acceptance of the above plan by the Corps of Engineers, Regulatory Branch.

~~The following~~ ~~information~~ ~~is~~ ~~that~~



PL C WORKS

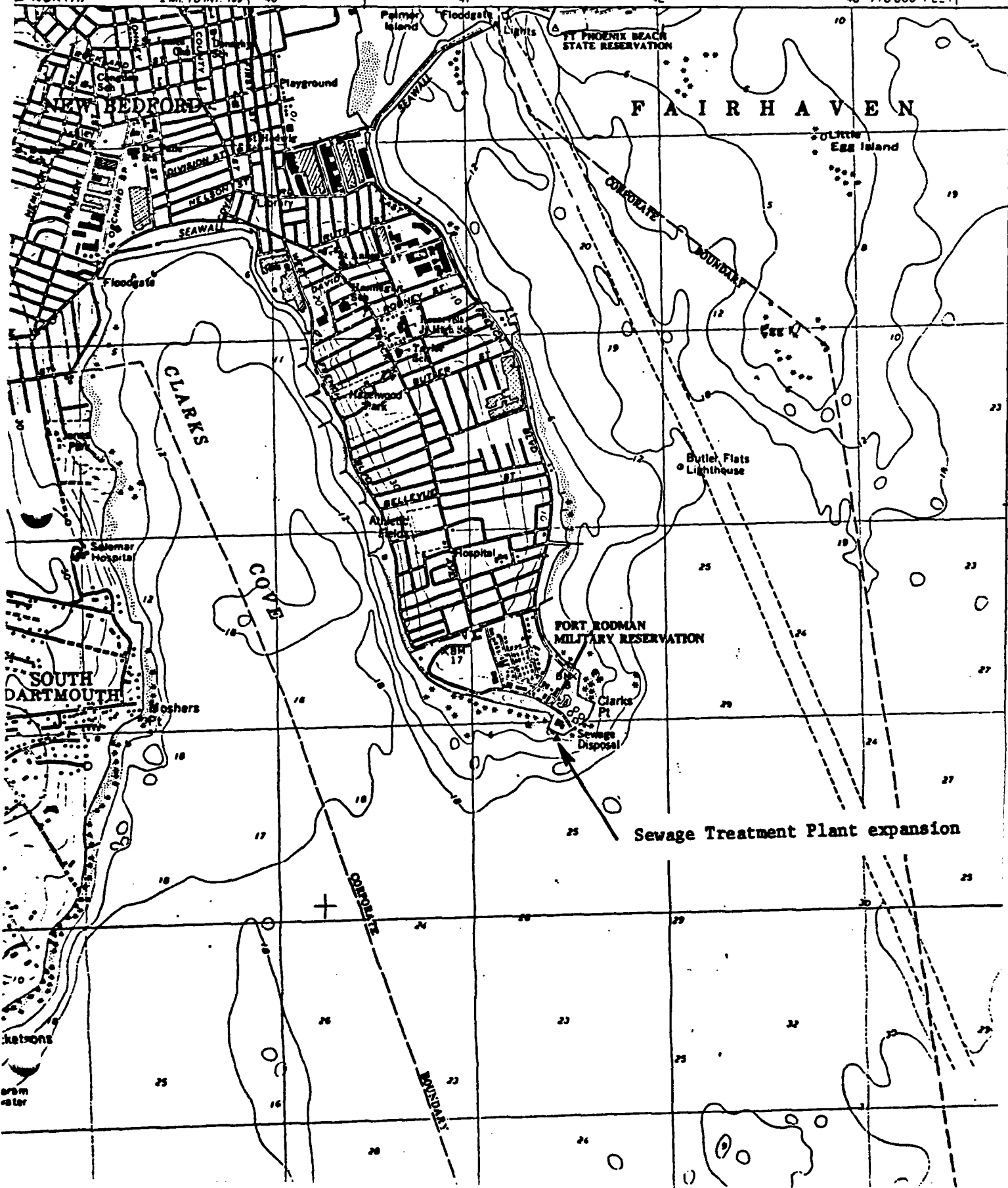
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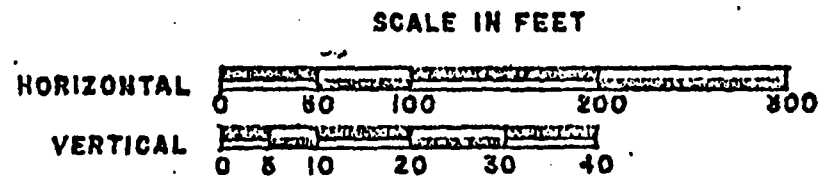
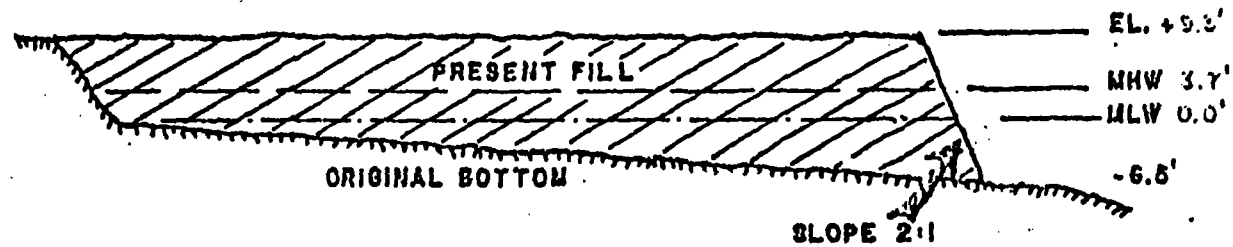
TAUNTON 22 ML
2 MI. TO INT. 195

MASSACHUSETTS

7.5 MINUTE SERIES (TOPOGRAPHIC)

243 770 000 FEET, 70° 52'





SECTION A-A

NOTE: FILL MATERIAL FROM
DEMOLITION DEBRIS,
CITY OF NEW BEDFORD
SOUTH END RECONSTRUCTION
1966-1978

J.M. FORNS &/b/a
APPLIED MARINE ECOLOGY LAB.
25 GREENGATE ROAD
FALMOUTH, MASS. 02540

NEW BEDFORD
H.D.C.

NEW BEDFORD
H.D.C.

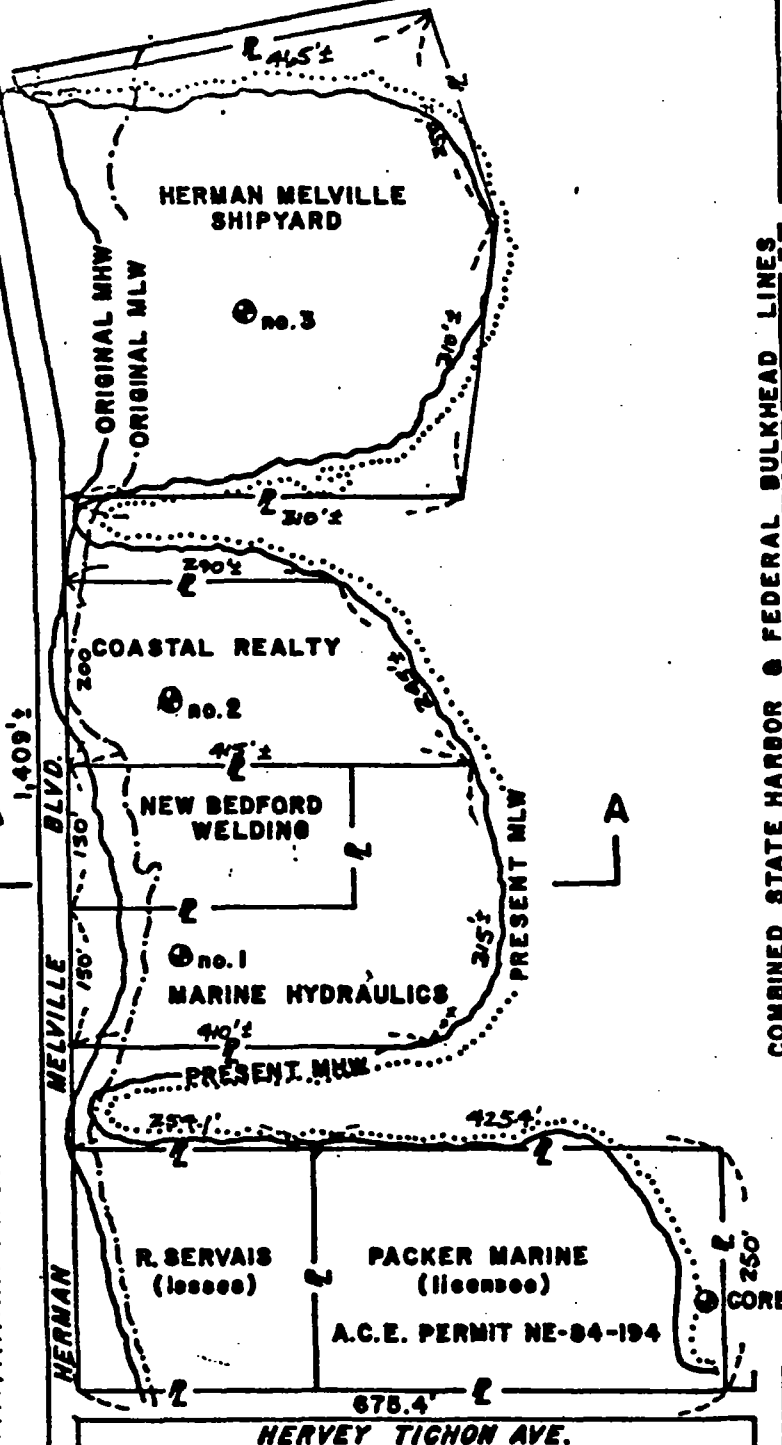


SCALE 1:25 000

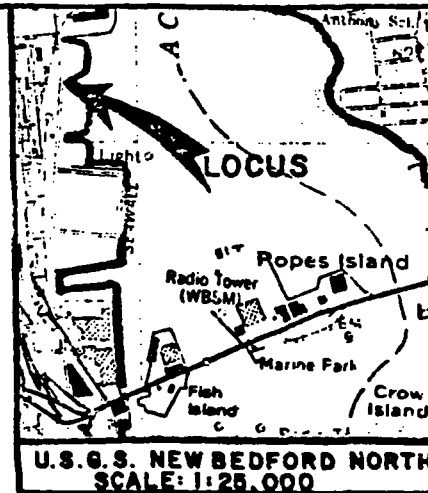
CONTOUR INTERVAL 10 FEET

VERTICAL ELEVATIONS AND SPINNING IN FEET - DATUM IS MEAN LOW WATER

SHEET 1a of 2a



COMBINED STATE HARBOR & FEDERAL BULKHEAD LINES



ACUSHNET RIVER



PLAN ACCOMPANYING PETITION OF
CITY OF NEW BEDFORD
HARBOR DEVELOPMENT COMM.
FOR THE RETENTION OF FILL
IN THE ACUSHNET RIVER
NEW BEDFORD, MASS.

AUGUST 14, 1985

SCALE IN FEET



NORTH TERMINAL N.B.H.D.C.

NOTE: LOCATIONS OF
SOIL AND CORE
SAMPLE TESTS

MASS. LIC. 5130

STATEMENT OF FINDINGS AND ENVIRONMENTAL ASSESSMENT

1. Applicant: New Bedford Harbor Development Commission

Application Number: 24-85-640

2. This permit action is being taken under authority delegated to the District Engineer from the Secretary of the Army and the Chief of Engineers by Title 33, Code of Federal Regulations, Part 325.8, pursuant to:

- ☒ Section 10 of the Rivers and Harbors Act of 1899
- ☒ Section 404 of the Clean Water Act
- ☐ Section 103 of the Marine Protection, Research & Sanctuaries Act.

3. Character, location, and purpose of work: The New Bedford Harbor Development Commission (NBHDC) proposes to retain 8.5 acres of unauthorized fill along the west side of the Acushnet River. The city plans to use this area for waterfront industrial development. This permit is required to allow the city clear title to the property so that it can be leased to 4 developers:

a) Herman Melville Shipyard Inc. - The purpose of this fishing business is to develop an operational ship construction and repair facility. This will include a floating drydock, marine railway, boat travel lift and sufficient dock space to handle 5 to 7 offshore fishing boats.

b) Coastal Realty Co., Inc. plans to construct buildings to be leased to the following tenants:

ByRite Seafood Corp.	-	buying & selling of fresh & frozen fish & the unloading of fishing boats.
Boathaven Marine Company	-	indoor boat storage, boat repair and slip rental.
Coastal Electronics Corp	-	installing and servicing radio and electronics equipment for the fishing fleet.
Gladding Corp.	-	cordage company which supplies rope to all vessels (fishing & pleasure).

c) New Bedford Welding Supply Inc. - This business provides supplies and services to the fishing vessels throughout the harbor. By relocating within the upper harbor, this business will move approximately 9 miles closer to its primary business clients.

d) Marine Hydraulics Co. - This business provides specialty hydraulic winches, pumps and motors for the fishing fleet. It involves supply and service/repairs to the fishing industry in New Bedford. Future plans include providing additional dock space and on-site boat repairs.

4. Environmental setting: This area is located in the intensively developed downtown industrial waterfront immediately north of the New Bedford Harbor Development Commission's North Terminal Bulkhead. The city has been promoting waterfront industrial development, particularly fisheries related activities, in its northern harbor since construction of the North Terminal in 1968. The 11.5 acre Penn Central Railroad yard located shoreward of this Northern Harbor area had also been obtained by the city.

5. Character of resources impacted: The area where fill was placed was intertidal and subtidal estuarine habitat which are typically valuable as spawning, feeding and rearing areas for recreational and commercial finfishes. Sediments in the surrounding area are predominately sand with varying concentrations of PCB's and heavy metals.

6. Relationship to existing uses: The fill was placed in anticipation of expansion of the North Terminal facilities. The areas are part of the planned 23 acre sequential commercial and industrial development of the northern harbor.

7. Alternatives: The removal of the unauthorized fill would hinder the city's plans for utilization of the northern harbor for fishing and other water-dependent industries as identified in the Northern New Bedford/Fairhaven Harbor Study. The southern harbor is already heavily developed and the fishing and related industries are expanding to the northern harbor. There are no other sites available to the city which would not require additional fill.

The use of the adjacent 11.5 acre railroad site for fishing industries is not presently available. It has been identified as a PCB contaminated site by Environmental Protection Agency.

8. The following checklist summarizes the anticipated impacts of the proposed project. On weighing the various factors, the net environmental effects are considered to be minor.

EFFECTS ON PUBLIC INTEREST FACTORS:

+ Beneficial - Adverse 0 Negligible Effect

0 Water Quality	- Benthic Flora & Fauna	0 Land Use Classification
0 Wetlands	0 Conservation	0 Water Supply
0 Navigation	0 Recreation	0 Food Production
0 Flooding	0 Historical	0 Energy Needs
+ Economics	0 Drainage	0 Air Quality
0 Aesthetics	0 Circulation Patterns	0 Noise
- Wildlife	0 Erosion/Accretion	0 Safety
- Finfish/Plankton		0 Other

EVALUATION OF AFFECTED PUBLIC INTEREST FACTORS:

FACTOR	ANTICIPATED EFFECT		COMMENTS INCLUDING POSSIBLE CUMULATIVE EFFECTS
	Beneficial +		
	<u>Adverse</u> -		
	SHORT TERM	LONG TERM	
Economics	+		Approximately 3000 jobs could be generated by the 4 leasees of the site. The proposal is consistent with the Master Plan for the North Terminal.
Wildlife	-		Shallow intertidal habitat is important for many waterfowl species for feeding and nesting sites. This habitat has been permanently lost.
Finfish/Plankton	-		Alewives, killifish and invertebrates thrive in shallow brackish areas and contribute to the basic food chain. Portions of the site were intertidal estuarine habitat; generally valuable as spawning, feeding and rearing areas for important recreational and commercial finfishes. This habitat has been permanently destroyed.

Benthic Flora & Fauna

Although this area is contaminated with PCB's and heavy metals, the large populations of clams and lobsters in the Acushnet River are contributors to the seed stock of the general population. Any shellfish which had inhabited the area have been displaced.

9. Findings:

a. The fill was previously authorized by Massachusetts Department of Public Works licenses nos. 4728,5128,5130.

b. State water quality certification was previously issued for application no. 24-81-031 which included all these parcels.

c. A revised public notice adequately describing the proposed work was issued on June 30, 1983 and sent to all known interested parties. All comments received are noted below and have been evaluated and are included in our administrative record of this action.

1) A joint processing meeting was held June 2, 1983. At that time each of the Federal resource agencies indicated that it was difficult to evaluate only the R.M. Packer portions of the site and asked if all of the unauthorized fill areas could be combined into one application. We felt this was appropriate and we issued the revised notice.

a) The National Marine Fisheries Service (NMFS) recommended that a mitigation plan such as a saltmarsh creation project be provided, that development be allowed for water/dependent purposes only and that Areas B & C should be reserved for use by the Environmental Protection Agency's PCB clean-up program for the Acushnet River. If these sites are not needed for PCB contaminated sediment disposal, any development should be water-dependent and preferably fisheries related.

b) The EPA also suggested that retention of the Areas B & C be coordinated with their Superfund Remedial Action Master Plan as the siting analysis for disposal sites has not yet been completed. They suggested that a mitigation plan be

proposed to create fish passage facilities for anadromous fish, and that any development be water-dependent and preferably fisheries related.

c) The Fish and Wildlife Service (F&WS) classified the habitat filled as Resource Category 3; activities should include no net loss of habitat value. They objected to retention of the fill unless an appropriate mitigation/compensation plan is incorporated. Several possibilities for mitigation were suggested, including wetland creation, enhancement of existing aquatic habitat or providing anadromous fish access to existing but isolated aquatic habitat.

2) In a letter dated December 11, 1985, the Coastal Zone Management office stated that CZM review is not necessary.

d. General Evaluation:

1) Unauthorized fill was placed at three sites over a 10 acre intertidal and subtidal area of the Acushnet River by the City of New Bedford and various contractors. This permit would only allow retention of 8.5 acres of unauthorized fill. A previous permit authorized the remainder of the fill. Any associated development work at the site will require separate permits by the individual leasees.

2) History - The unauthorized fill was brought to our attention in May 1982 by the National Marine Fisheries Service. The city maintains that they understood that it was acceptable to place fill out to the bulkhead line. We informed them in November 1982 that the harbor lines were declared inoperative in May 1970 and that a Corps permit was required. In March 1983, we received an application from the city and R.M. Packer to develop one of the three parcels. Our review revealed no evidence of a willful violation of Federal law and declined legal action. The first public notice issued and discussed at a Joint Processing meeting included only the parcel with the proposed development by R.M. Packer and Rene Servais. It was later revised to include the other 2 parcels to which the city plans to expand its waterfront industrial development, as identified in the Northern New Bedford/Fairhaven Harbor study. The original purpose of the fill was to provide new waterfront land to promote long term economic growth in the northern harbor. In addition to the extreme cost, removal of the present fill would reverse the direction of designated development for the entire northern harbor. Incremental development of waterfront areas within the city are vital to the economy of the area.

3) A permit was issued in July 1984 for Area A but was conditioned to require mitigation of the loss of habitat in the final design of the North Terminal area. Plans were to be provided within 3 months. A fish ladder and herring stocking project was proposed by the City for the dam at Turners Pond. It has since been learned that the Pond is now too acidic to be suitable for stocking under the State program.

4) In June 1983 the NBHDC advertised for developers to lease the remainder of the property. A public notice of the proposed leases was issued by the City on April 18, 1985 prior to the City Council's vote of May 23, 1985 to approve the leases.

5) Since approval of the Packer application by the Corps in August 1984, the City of New Bedford has obtained firm commitments for additional development of the filled land between the Packer property in the North Terminal area and the Revere Copper and Brass property to the north. These two remaining parcels involve approximately 8.5 acres of filled land along Herman Melville Blvd. Four proposed tenants have agreed to retain the present shoreline configuration, make improvements on the present land and individually apply for permits and licenses for any future waterfront activities. Careful consideration has been given to the water dependent and fishery related activities of each prospective tenant. Additionally, each prospective tenant will contribute to an overall mitigation plan being developed by the city at an alternative location.

6) On June 11, 1985, the Harbor Development Commission (HDC) requested that we review retention of the unauthorized fill based on the following leasees: Herman Melville Shipyard, Marine Hydraulics, New Bedford Welding Supply, and Coastal Realty Corp.

(i) NMFS does not object to this proposal but urged that a formal mitigation plan be completed.

(ii) EPA objected to any development of the site which would conflict with proposals by Mass. DPW, Rte 6 Bridge and EPA Superfund projects to dispose of dredge material.

(iii) F&WS did not object to the current proposal but recommended the mitigation plans be finalized.

7) We met with Fish & Wildlife Service and Environmental Protection Agency on October 23, 1985 to discuss the mitigation and alternative disposal site proposals. We coordinated with National Marine Fisheries Service by

telephone. It was agreed that the City should pursue the fisheries enhancement on the Paskamensett River as the preferred mitigation alternative with the shellfish relaying program as a backup plan. In reviewing the sites to be studied for disposal of non-hazardous dredged material, it appears that each of the sites had some potential and warranted further investigation.

8) By telephone on November 4, 1985 and November 6, 1985, the resource agencies agreed that the proposed mitigation and investigation of alternative disposal sites as stated in the Special Conditions will satisfy their concerns.

9) In an effort to consolidate individual tenants into a single plan for mitigation, the City will require each tenant to contribute to a fund set aside for environmental enhancement at alternative locations. Acting in conjunction with the Conservation Commission, the Harbor Development Commission (NBHDC) will investigate fisheries enhancement projects on the Paskamensett River or a shellfish relaying program. The first alternative for mitigation will involve anadromous fish restoration efforts. The Paskamensett River will be investigated as a potential site where stream restoration, herring runs or fish ladders could provide fishery enhancement. NBHDC will coordinate with the local Conservation Commission, and State and Federal Fish & Wildlife agencies. If, for reasons beyond the control of the City of New Bedford, the first alternative is not feasible, the shellfish relaying program will be undertaken. This program may supplement but not replace any State program. The NBHDC will also be directing efforts towards mitigating future environmental problems within the New Bedford Harbor area. This effort will entail analysis of the sediments surrounding the present fill area. Physical conditions and chemical constituents will be tested for bottom sediments within the present inlets and drainage areas, as well as from the shoreline to the river channel. From this data suggested strategies can be developed for dealing with this portion of the overall Harbor cleanup effort.

10) Any dredged material to be placed in the North Terminal area would probably be seaward of the present shoreline and not directly affect the proposed tenants. Provisions in the leases allow for the possibility of changes to accommodate dredged material. Extending the bulkhead from the present Packer barge loading facility north to the Revere building will provide a disposal area for Harbor dredgings. The encapsulation of dredged material used at the Packer site may provide a means of dealing with mildly contaminated sediments and still allow for fishery related activities. A study by Mass. Div. of

Waterways is considering providing additional bulkhead space at the North Terminal area. This possibility may allow for disposal of dredged material behind the proposed bulkhead.

11. At present, there are no licensed disposal locations for non-hazardous dredged materials within the immediate New Bedford Harbor area. There are several projects where applications have been filed or are pending which require minor dredging and disposal. There are several locations within the waterfront area which are known to have some degree of contamination by PCBs. EPA's Superfund program has not determined if there are suitable locations for disposal of hazardous materials within the New Bedford Harbor area. No strategy presently exists for the disposal of contaminated, non-hazardous dredged materials for the New Bedford Harbor area. The NBHDC is prepared to commit necessary resources to investigate strategies and potential sites for disposal of non-hazardous dredged materials. Site selection priority will be given to upland and shore zone locations within the immediate Harbor area which are accessible and provide the best logistics. The proposed plan will include a procedural mechanism for identification of potential sites, access and logistics for transfer, containment and capping, permit application requirements and sources of funding for implementation. This disposal site selection plan will explore the possibility of NBHDC licensing and/or leasing private industry to develop and operate the selected dredged material disposal site. Six possible sites will be investigated by NBHDC for use as disposal areas for non-hazardous dredged materials. These include the City Landfill (as capping), the North End Playground on the Acushnet River, the railroad yards adjacent to the present fill location, the area within the Acushnet River adjacent to the present fill area, the Pope's Island location and the area next to the present sewage treatment plant at Ft. Rodman.

12. We contacted both the EPA Superfund program and Mass. Dept. of Public Works for specific information and schedules concerning their proposed use of the site for disposal of material from their respective dredging projects. Both responded that the site had been included in preliminary studies however neither had more specific plans at the time and none were imminent.

13. In addition to benefiting the local economy by allowing the property to be leased, the extensive work to be done by the City as required by the Special Conditions will be extremely beneficial to the New Bedford Harbor/Acushnet River ecology. The City of New Bedford grew up around the fishing industry and recognizes the importance of the fisheries enhancement or shellfish program and the dredged material disposal area to the entire region.

4. Application of 404(b) guidelines: The final guidelines of the Environmental Protection Agency for the discharge of fill or dredged material (40 CFR 230) as published in the Federal Register, dated 24 December 1980, have been applied in evaluating this permit application.

14. I find that based on the evaluation of environmental effects discussed in this document, the decision on this application is not a major Federal action significantly affecting the quality of the human environment. Hence, an environmental impact statement is not required.

15. I have considered all factors affecting the public interest including conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage protection, land use classifications, navigation, recreation, water supply, water quality, public safety, energy needs, food production, and in general, the needs and welfare of the people. After weighing favorable and unfavorable effects as discussed in this document, I find that this project is not contrary to the public interest and that a Department of the Army permit should be issued.

William S. Gorden
DISTRICT ENGINEER

Jun 3 1986
DATE